

Introduced by Senator ScottJanuary 6, 2005

An act to amend Section 1206 of the Health and Safety Code, relating to clinics.

LEGISLATIVE COUNSEL'S DIGEST

SB 47, as introduced, Scott. Clinics.

Existing law regulates the licensure of clinics, as defined, by the State Department of Health Services. Under existing law, specified types of clinics are exempted from these licensing provisions, including, until January 1, 2008, clinics that are nonprofit corporations and satisfy requirements regarding medical research and the receipt of charitable contributions and bequests.

This bill would delete the January 1, 2008, date for termination of the exemption from the licensure requirements for the nonprofit clinics described above and would require a related report by January 1, 2007.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1206 of the Health and Safety Code is
- 2 amended to read:
- 3 1206. This chapter does not apply to the following:
- 4 (a) Except with respect to the option provided with regard to
- 5 surgical clinics in paragraph (1) of subdivision (b) of Section
- 6 1204 and, further, with respect to specialty clinics specified in
- 7 paragraph (2) of subdivision (b) of Section 1204, any place or
- 8 establishment owned or leased and operated as a clinic or office

1 by one or more licensed health care practitioners and used as an
2 office for the practice of their profession, within the scope of
3 their license, regardless of the name used publicly to identify the
4 place or establishment.

5 (b) Any clinic directly conducted, maintained, or operated by
6 the United States or by any of its departments, officers, or
7 agencies, and any primary care clinic specified in subdivision (a)
8 of Section 1204 that is directly conducted, maintained, or
9 operated by this state or by any of its political subdivisions or
10 districts, or by any city. Nothing in this subdivision precludes the
11 state department from adopting regulations that utilize clinic
12 licensing standards as eligibility criteria for participation in
13 programs funded wholly or partially under Title XVIII or XIX of
14 the federal Social Security Act.

15 (c) Any clinic conducted, maintained, or operated by a
16 federally recognized Indian tribe or tribal organization, as
17 defined in Section 450 or 1601 of Title 25 of the United States
18 Code, that is located on land recognized as tribal land by the
19 federal government.

20 (d) Clinics conducted, operated, or maintained as outpatient
21 departments of hospitals.

22 (e) Any facility licensed as a health facility under Chapter 2
23 (commencing with Section 1250).

24 (f) Any freestanding clinical or pathological laboratory
25 licensed under Chapter 3 (commencing with Section 1200) of
26 Division 2 of the Business and Professions Code.

27 (g) A clinic operated by, or affiliated with, any institution of
28 learning that teaches a recognized healing art and is approved by
29 the state board or commission vested with responsibility for
30 regulation of the practice of that healing art.

31 (h) A clinic that is operated by a primary care community or
32 free clinic and that is operated on separate premises from the
33 licensed clinic and is only open for limited services of no more
34 than 20 hours a week. An intermittent clinic as described in this
35 paragraph shall, however, meet all other requirements of law,
36 including administrative regulations and requirements, pertaining
37 to fire and life safety.

38 (i) The offices of physicians in group practice who provide a
39 preponderance of their services to members of a comprehensive

1 group practice prepayment health care service plan subject to
2 Chapter 2.2 (commencing with Section 1340).

3 (j) Student health centers operated by public institutions of
4 higher education.

5 (k) Nonprofit speech and hearing centers, as defined in Section
6 1201.5. Any nonprofit speech and hearing clinic desiring an
7 exemption under this subdivision shall make application therefor
8 to the director, who shall grant the exception to any facility
9 meeting the criteria of Section 1201.5. Notwithstanding the
10 licensure exemption contained in this subdivision, a nonprofit
11 speech and hearing center shall be deemed to be an organized
12 outpatient clinic for purposes of qualifying for reimbursement as
13 a rehabilitation center under the Medi-Cal Act (Chapter 7
14 (commencing with Section 14000) of Part 3 of Division 9 of the
15 Welfare and Institutions Code).

16 (l) A clinic operated by a nonprofit corporation exempt from
17 federal income taxation under paragraph (3) of subsection (c) of
18 Section 501 of the Internal Revenue Code of 1954, as amended,
19 or a statutory successor thereof, that conducts medical research
20 and health education and provides health care to its patients
21 through a group of 40 or more physicians and surgeons, who are
22 independent contractors representing not less than 10
23 board-certified specialties, and not less than two-thirds of whom
24 practice on a full-time basis at the clinic.

25 (m) Any clinic, limited to in vivo diagnostic services by
26 magnetic resonance imaging functions or radiological services
27 under the direct and immediate supervision of a physician and
28 surgeon who is licensed to practice in California. This shall not
29 be construed to permit cardiac catheterization or any treatment
30 modality in these clinics.

31 (n) A clinic operated by an employer or jointly by two or more
32 employers for their employees only, or by a group of employees,
33 or jointly by employees and employers, without profit to the
34 operators thereof or to any other person, for the prevention and
35 treatment of accidental injuries to, and the care of the health of,
36 the employees comprising the group.

37 (o) A community mental health center, as defined in Section
38 5601.5 of the Welfare and Institutions Code.

39 (p) (1) A clinic operated by a nonprofit corporation exempt
40 from federal income taxation under paragraph (3) of subsection

(c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, as an entity organized and operated exclusively for scientific and charitable purposes and that satisfies all of the following requirements:

(A) Commenced conducting medical research on or before January 1, 1982, and continues to conduct medical research.

(B) Conducted research in, among other areas, prostatic cancer, cardiovascular disease, electronic neural prosthetic devices, biological effects and medical uses of lasers, and human magnetic resonance imaging and spectroscopy.

(C) Sponsored publication of at least 200 medical research articles in peer-reviewed publications.

(D) Received grants and contracts from the National Institutes of Health.

(E) Held and licensed patents on medical technology.

(F) Received charitable contributions and bequests totaling at least five million dollars (\$5,000,000).

(G) Provides health care services to patients only:

(i) In conjunction with research being conducted on procedures or applications not approved or only partially approved for payment (I) under the Medicare program pursuant to Section 1359y(a)(1)(A) of Title 42 of the United States Code, or (II) by a health care service plan registered under Chapter 2.2 (commencing with Section 1340), or a disability insurer regulated under Chapter 1 (commencing with Section 10110) of Part 2 of Division 2 of the Insurance Code; provided that services may be provided by the clinic for an additional period of up to three years following the approvals, but only to the extent necessary to maintain clinical expertise in the procedure or application for purposes of actively providing training in the procedure or application for physicians and surgeons unrelated to the clinic.

(ii) Through physicians and surgeons who, in the aggregate, devote no more than 30 percent of their professional time for the entity operating the clinic, on an annual basis, to direct patient care activities for which charges for professional services are paid.

(H) Makes available to the public the general results of its research activities on at least an annual basis, subject to good faith protection of proprietary rights in its intellectual property.

(I) Is a freestanding clinic, whose operations under this subdivision are not conducted in conjunction with any affiliated or associated health clinic or facility defined under this division, except a clinic exempt from licensure under subdivision (m). For purposes of this subparagraph, a freestanding clinic is defined as “affiliated” only if it directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a clinic or health facility defined under this division, except a clinic exempt from licensure under subdivision (m). For purposes of this subparagraph, a freestanding clinic is defined as “associated” only if more than 20 percent of the directors or trustees of the clinic are also the directors or trustees of any individual clinic or health facility defined under this division, except a clinic exempt from licensure under subdivision (m). Any activity by a clinic under this subdivision in connection with an affiliated or associated entity shall fully comply with the requirements of this subdivision. This subparagraph shall not apply to agreements between a clinic and any entity for purposes of coordinating medical research.

~~(2) This subdivision shall become inoperative on January 1, 2008. Prior to extending or deleting that inoperative date, the By January 1, 2007, the~~ Legislature shall receive a report from each clinic meeting the criteria of this subdivision and any other interested party concerning the operation of the clinic’s activities. The report shall include, but not be limited to, an evaluation of how the clinic impacted competition in the relevant health care market, and a detailed description of the clinic’s research results and the level of acceptance by the payer community of the procedures performed at the clinic. The report shall also include a description of procedures performed both in clinics governed by this subdivision and those performed in other settings.